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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------|------------------|
| 10/662,742 | 09/15/2003 | Michelle Ogg | 10006921-2 | 1914 |
| 22879 | 7590 | 09/22/2004 | EXAMINER | |
| HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400 | | | BLACKMAN, ROCHELLE ANN J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2851 | |

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,742

Applicant(s)

OGG ET AL.

Examiner

Rochelle Blackman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection. However, claims 1-4, 6-17, and 19 (renumbered as 1-17) stand rejected under 35 USC. 102(b) by Fujii, JP Patent No. 11-281869. Applicants have request an English language translation of Fujii, JP Patent No. 11-281869, be provided in order to respond to the rejection, therefore one has been provided herewith.

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujii, JP Patent No. 11-281869.

Fujii discloses “a method for controlling a lens group having a focus lens and a zoom lens group along an optical axis”(see Drawings 1-5); “a focus lens”(see 3 of Drawings 1 and 2); “a zoom lens group” including “at least one zoom lens”(see 2 of Drawings 1 and 2); “receiving input to change the position of a selected one of the focus lens and the zoom lens group”, “receiving input to change the position of the focus lens”, “receiving input to change the position of at least one zoom lens”, and “receiving input to move the lens group to a power-off position”; “separately controlling the positions of the focus lens and the zoom lens group along the optical axis such that the focus lens and the second lens zoom lens approach no closer to one another than a selected minimum safe distance, for any selected magnification provided by the zoom lens group and focus lens” comprising: “determining the initial position of the at least one zoom lens”, determining the initial position of the focus lens and focal distance associated with said initial position, and “determining a permissible working range”; “moving at least one zoom lens a discrete amount along the optical axis to a new position in the direction associated with said received input; “moving the focus lens to

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the best focus position within the permissible working range”, wherein the best focus position within said permissible working range achieves focus for said initial focal distance at said new position of said at least one zoom lens” comprising: “selecting a focus figure of merit”, “moving the focus lens in one direction along the optical axis”, “tracking the position of the focus lens along the optical axis”, “if the focus figure of merit increases, moving the focus lens again in said one direction to a final position that is no further than a boundary of said permissible working range”, “wherein said final position substantially corresponds to a position on the optical axis where a peak value of said focus figure of merit is reached”, and “wherein said final position is a boundary of said permissible working range”; and repeating said moving the zoom lens, said determining a permissible working range, and said moving the focus lens until at least one zoom lens has reached a final position associated with said received input”(see paragraphs [0053]-[0066] along with the flow chart of Drawings 3 and the graph of the zoom lens and focus lens positions in relation to each other in Drawing 5 and see [0067]-[0082] along with the flow chart of Drawing 4 and the graph of the zoom lens and focus lens positions in relation to each other in Drawing 5). It is inherent that the “zoom lens group” 2 and the “focus lens” 3 are being controlled to “approach no closer to one another than a selected minimum safe distance, for any selected magnification provided by the zoom lens group and the focus lens” and that a “permissible working range along the optical axis” is being determined and “for each selected magnification of the zoom lens group and focus lens” the “focus lens” is being moved to the “best focus position

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within said permissible working range” since Fujii teaches preventing collisions between lenses.

2. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Takaoka, JP Patent No. 2001-033683.

Fujii discloses a “method for controlling a lens group having a focus lens and a zoom lens group along an optical axis”(see function of elements in Drawings 1-4); “a focus lens”(see 14); “a zoom lens group” including “at least one zoom lens” and “a zoom lens group” that has a “first zoom lens and a second zoom lens” (see 12); “receiving input to change the position of a selected one of the focus lens and the zoom lens group”, “receiving input to change the position of the focus lens”, “receiving input to change the position of at least one zoom lens”, and “receiving input to move the lens group to a power-off position”; “separately controlling the positions of the focus lens and the zoom lens group along the optical axis such that the focus lens and the second lens zoom lens approach no closer to one another than a selected minimum safe distance, for any selected magnification provided by the zoom lens group and focus lens” comprising: “determining the initial position of the at least one zoom lens”, determining the initial position of the focus lens and focal distance associated with said initial position, and “determining a permissible working range”; “moving at least one zoom lens a discrete amount along the optical axis to a new position in the direction associated with said received input; “moving the focus lens to the best focus position within the permissible working range”, wherein the best focus position within said permissible working range achieves focus for said initial focal distance at said new position of said

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at least one zoom lens" comprising: "selecting a focus figure of merit", "moving the focus lens in one direction along the optical axis", "tracking the position of the focus lens along the optical axis", "if the focus figure of merit increases, moving the focus lens again in said one direction to a final position that is no further than a boundary of said permissible working range", "wherein said final position substantially corresponds to a position on the optical axis where a peak value of said focus figure of merit is reached", and "wherein said final position is a boundary of said permissible working range"; and repeating said moving the zoom lens, said determining a permissible working range, and said moving the focus lens until at least one zoom lens has reached a final position associated with said received input"(see Drawings 3 and 4 along with explanation thereof in paragraphs [0025]-[0040], the claimed method steps are considered to be executed by the explanation of movement of the zoom and focus lens 12 and 14 in paragraphs [0025]-[0040] which correspond to Drawings 3 and 4). Takaoka is considered to be controlling the positions of the "zoom lens group" 12 and the "focus lens" 14 to "approach no closer to one another than a selected minimum safe distance, for any selected magnification provided by the zoom lens group and the focus lens"; determining a "permissible working range along the optical axis"; and "for each selected magnification of the zoom lens group and focus lens, moving the focus lens to the best focus position within said permissible working range" because the moving ranges of the "zoom lens group" and/or "second zoom lens" 12 and the "focus lens" 14 of Takaoka are being limited so that the sleeves 32,34 installed on the frames of "zoom lens group" and/or "second zoom lens" 12 and the "focus lens" 14 of Takaoka, do not collide with

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each other and a limiting position is set so that the distance between the sleeves 32, 34 is a prescribed allowable minimum value when the "zoom lens group" and/or "second zoom lens" 12 and the "focus lens" 14 of Takaoka get close to the nearest distance in a prescribe subject distance (see SOLUTION under Abstract).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,714,731. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed "method for controlling a lens group..." of claims 1 and 17 is met by the *method for controlling a lens group...* of claims 1 and 2 of Patent No. '731; the claimed "receiving input to change the position of a selected one of the focus lens and the zoom lens groups" of claim 1 and the claimed "receiving input to change the position of the zoom lens group" of claim 17 is met by the *receiving input to change the position of a selected one of the focus lens and the zoom lens group* of claim 1 of Patent '731; the claimed "separately

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controlling the positions of the focus lens and the zoom lens group..." of claim 1 is met by the *separately controlling the positions of the focus lens and the zoom lens group* of claim 1 of Patent '731; the claimed "determining the initial position of the second zoom lens" of claim 17 is met by the *determining the initial position of the second zoom lens* of claim 2 of Patent '731; the claimed "determining a permissible working range" of claim 17 is met by *determining a permissible working range* of claims 1 and 2 of Patent '731; the claimed "for each selected magnification of the zoom lens group and focus lens, moving the focus lens..." of claim 17 is met by *for each selected magnification of the zoom lens group and focus lens, ...moving the focus lens...* of claim 2; method steps of claims 2-16 are similarly met by the method steps of claims 1 and 2 of Patent '731.

Conclusion

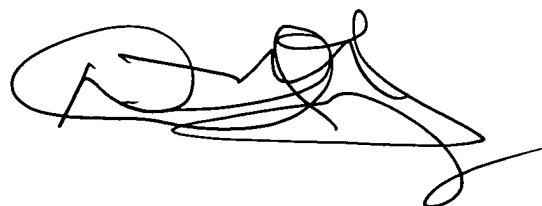
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rochelle Blackman whose telephone number is (571) 272-2113. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RB

A handwritten signature in black ink, appearing to read 'David Gray', with a stylized, looping flourish extending from the end.

David Gray
Primary Examiner